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OFFICE OF PETITIONS

In re Patent No. 6,858,407	:	
Feder, et al.	:	
Issue Date: February 22, 2005	:	DECISION ON
Application No. 10/029,347	:	PATENT TERM ADJUSTMENT
Filed: April 3, 2002	:	
Attorney Docket No. D0066 NP	:	

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT PERIOD IN GRANTED PATENT", filed March 30, 2005. Patentees request that the patent term adjustment indicated on the patent be corrected from thirteen (13) days to one hundred twenty (120) days.

The application for patent term adjustment is **DISMISSED**.

On February 22, 2005, the above-identified application matured into U.S. Patent No. 6,858,407. The instant request for reconsideration filed March 30, 2005 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of thirteen (13) days. Patentees state that they should not have been assessed applicant delay of one hundred twenty (120) days for the submission of drawings after the Notice of Allowance.

The adjustment of one hundred twenty (120) days for the submission of drawings after the Notice of Allowance has been determined to be correct. By Official Gazette Notice dated June 26, 2001, the Director has advised applicants and patentees

that the filing of certain papers after the mailing of a Notice of Allowance will be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and will result in reduction of a patent term adjustment pursuant to 37 C.F.R. §1.704(c)(10). See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance, 1247 OG 111 (June 26, 2001). Drawings are listed as an example of a paper that is considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application.

In view thereof, the correct determination of PTA at the time of issuance is **thirteen (13)** days (220 days of PTO delay, reduced by 207 days of applicant delay).

The \$200 fee pursuant to 37 C.F.R. §1.18(e) has been charged to Deposit Account No. 19-3880. The fee set forth in 37 C.F.R. §1.18(e) is charged to allow the Office to recover the estimated average cost of treating applications for patent term adjustment, and is not refundable, even in the event of Office error.¹

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Karin Ferriter
for

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

¹ See Comment 1 in Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14, 65 Fed. Reg. 54366 (Oct. 3 2000).